

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

DAVID F. BARNES,

Petitioner,

v.

CIVIL ACTION NO. 5:05-0017

MARTY C. ANDERSON,
Warden, FCI Beckley,

Respondent.

MEMORANDUM OPINION AND JUDGMENT ORDER

By Standing Order entered on July 21, 2004, and filed in this case on January 10, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation. Magistrate Judge VanDervort filed his proposed findings and recommendation on February 14, 2006. In that filing, the magistrate judge recommended that this court (1) deny petitioner's motion for relief on habeas corpus by default (Doc. No. 21), (2) dismiss petitioner's application (Doc. No. 2) as moot, and (3) remove this matter from the court's active docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a de

novo review by this court. Thomas v. Arn, 474 U.S. 140 (1985); Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby (1) **DENIES** the petitioner's motion for relief on habeas corpus by default (Doc. No. 21), (2) **DISMISSES** petitioner's application (Doc. No. 2), and (3) **DIRECTS** the Clerk to remove this matter from the court's active docket.

The Clerk is directed to mail a copy of this Memorandum Opinion and Order to all counsel of record, the plaintiff, pro se, and Magistrate Judge VanDervort.

IT IS SO ORDERED this 21st day of March, 2006.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge